

ASSEMBLY, No. 1725

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1996

By Assemblywoman BARK

1 AN ACT concerning the New Jersey Life and Health Insurance  
2 Guaranty Association and amending P.L.1991, c.208.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 3 of P.L.1991, c.208 (C.17B:32A-3) is amended to read  
8 as follows:

9 3. a. This act shall provide coverage, for the policies and contracts  
10 specified in subsection b. of this section, to:

11 (1) persons who, regardless of where they reside (except for  
12 nonresident certificate holders under group policies or contracts), are  
13 the beneficiaries, assignees or payees of the persons covered under  
14 paragraph (2) of this subsection; and

15 (2) persons who are owners of or certificate holders under those  
16 policies or contracts, or in the case of unallocated annuity contracts,  
17 to the persons who are the contract holders and who:

18 (a) are residents, or

19 (b) are not residents, but only if:

20 (i) the insurers which issued the policies or contracts are domiciled  
21 in this State;

22 (ii) those insurers never held a license or certificate of authority in  
23 the states in which those persons reside;

24 (iii) those states have associations and coverage provisions with  
25 respect to residency similar to the association created by this act; and

26 (iv) those persons are not eligible for coverage by those  
27 associations.

28 b. This act shall provide coverage to the persons specified in  
29 subsection a. of this section for:

30 (1) direct, non-group life, health, annuity and supplemental policies  
31 or contracts, for certificates under direct group life, health, annuity  
32 and supplemental policies and contracts, for individual and group  
33 long-term care insurance policies and contracts, and for unallocated  
34 annuity contracts, issued by member insurers, except as limited by this

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 act; [and]

2 (2) policies or contracts issued by medical service corporations  
3 declared to be insolvent or impaired by a court of competent  
4 jurisdiction on or after September 1, 1987, but prior to the effective  
5 date of this act, except as otherwise limited by this act; and

6 (3) policies or contracts issued by an Indiana domiciled stock  
7 insurance company declared to be insolvent or impaired by a court of  
8 competent jurisdiction on or after October 5, 1990, but prior to the  
9 effective date of this act, except as otherwise limited by this act.

10 c. This act shall not provide coverage for:

11 (1) any portion of a policy or contract not guaranteed by the  
12 insurer, or under which the risk is borne by the policy or contract  
13 holder;

14 (2) any policy or contract of reinsurance, unless assumption  
15 certificates have been issued;

16 (3) any portion of a policy or contract to the extent that the rate of  
17 interest on which it is based:

18 (a) averaged over the four-year period prior to the date on which  
19 the association becomes obligated with respect to that policy or  
20 contract, exceeds the lesser of:

21 (i) the rate of interest determined by subtracting three percentage  
22 points from Moody's Corporate Bond Yield Average averaged for that  
23 same four-year period, or for such lesser period if the policy or  
24 contract was issued less than four years before the association became  
25 obligated, or

26 (ii) the rate of interest specified in the standard valuation law, or the  
27 rules of this State for determining the minimum standard for the  
28 valuation of policies or contracts issued during the year of insolvency;  
29 and

30 (b) on and after the date on which the association becomes  
31 obligated with respect to that policy or contract, exceeds the rate of  
32 interest determined by subtracting four percentage points from  
33 Moody's Corporate Bond Yield Average as most recently available;  
34 except that the limitation of this paragraph shall not preclude the  
35 association from providing more extensive coverage if it is proceeding  
36 under the authority of section 7 of this act;

37 (4) any plan or program of an employer, association or similar  
38 entity to provide life, health, or annuity benefits to its employees or  
39 members to the extent that such plan or program is self-funded or  
40 uninsured, including, but not limited to, benefits payable by an  
41 employer, association or similar entity under:

42 (a) a Multiple Employer Welfare Arrangement as defined in the  
43 Employee Retirement Income Security Act of 1974 (29 U.S.C.  
44 §1002);

45 (b) a minimum premium group insurance plan;

46 (c) a stop-loss group insurance plan; or

- 1 (d) an administrative services only contract;
- 2 (5) any portion of a policy or contract to the extent that it provides  
3 dividends or experience rating credits, or provides that any fees or  
4 allowances be paid to any person, including the holder of the policy or  
5 contract, in connection with the service to or administration of that  
6 policy or contract;
- 7 (6) any policy or contract issued in this State by a member insurer  
8 at a time when it was not licensed or did not have a certificate of  
9 authority to issue that policy or contract in this State;
- 10 (7) any unallocated annuity contract issued to an employee benefit  
11 plan covered by the Pension Benefit Guaranty Corporation and whose  
12 benefits will be paid under such system; and
- 13 (8) any portion of any unallocated annuity contract which is not  
14 issued to or in connection with a specific plan providing benefits to  
15 employees or an association of natural persons.
- 16 d. The benefits for which the association may become liable shall  
17 in no event exceed the lesser of:
- 18 (1) the contractual obligations for which the insurer is liable or  
19 would have been liable if it were not an impaired or insolvent insurer;  
20 or
- 21 (2) with respect to any one insured individual, regardless of the  
22 number of policies or contracts:
- 23 (a) \$500,000 in life insurance death benefits, but not more than  
24 \$100,000 in net cash surrender and net cash withdrawal values for life  
25 insurance;
- 26 (b) \$500,000 in present value annuity benefits, including net cash  
27 surrender and net cash withdrawal values, but not more than \$100,000  
28 in net cash surrender and net cash withdrawal values for annuity  
29 benefits;
- 30 provided, however, that in no event shall the association be liable to  
31 expend more than \$500,000 in the aggregate with respect to any one  
32 individual under this paragraph (2); or
- 33 (3) with respect to any one unallocated annuity contract,  
34 \$2,000,000 in benefits; or
- 35 (4) with respect to any one group, blanket, or individual accident  
36 or health insurance or group, blanket or individual accident or health  
37 insurance policy, unlimited benefits.
- 38 e. A provider of health care services, in order to receive payment  
39 directly from the association upon a claim of the provider against an  
40 insured, shall agree to forgive the insured of 20% of the obligation  
41 which would otherwise be paid by the insurer had it not been  
42 insolvent. The obligations of solvent insurers to pay all or part of the  
43 covered claim are not diminished by the forgiveness provided in this  
44 subsection. The association is not bound by an assignment of benefits  
45 executed with respect to the coverage provided by the insolvent  
46 insurer. The association may aggregate all claims owed health care

1 providers when negotiating direct payment of claims of all covered  
2 individuals.

3 (cf: P.L.1991, c.208, s.3)

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5 2. This act shall take effect immediately.

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## STATEMENT

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10 The "New Jersey Life and Health Insurance Guaranty Association  
11 Act," P.L.1991, c.208 (C.17B:32A-1 et seq.), which took effect on  
12 January 1, 1991, was enacted to protect the policyholders of impaired  
13 or insolvent insurers. In the event of an insurer impairment or  
14 insolvency, the guaranty association steps in to see that policy  
15 obligations of the insurer are paid to beneficiaries and policyholders.

16 This bill would amend the "New Jersey Life and Health Insurance  
17 Guaranty Association Act" to provide coverage for residents of New  
18 Jersey who have been affected by the insolvency of the Mutual  
19 Security Life Insurance Company of Indiana.

20 Indiana law currently provides that a policyholder must be a  
21 resident of that state in order for the Indiana Life and Health Insurance  
22 Guaranty Association to provide coverage as a result of the Mutual  
23 Security insolvency. In October of 1990, the Indiana courts ordered  
24 that Mutual Security be placed in rehabilitation. Thus, Mutual  
25 Security was considered "impaired," that is, unable to meet its  
26 obligations, prior to the 1991 effective date of the New Jersey  
27 Guaranty Association. Subsequently, Mutual Security was declared  
28 insolvent by the court in December of 1991.

29 Because of the January 1, 1991 effective date of the New Jersey  
30 act, coverage is not available to policyholders of Mutual Security who  
31 are currently New Jersey residents.

32 This bill, therefore, would provide coverage for covered claims of  
33 the insolvent Mutual Security to New Jersey residents through this  
34 State's Guaranty Association.

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39 Expands coverage provisions of New Jersey Life and Health Insurance  
40 Guaranty Association.